



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2017-0550; FRL-9977-93-Region 4]**

**Air Plan Approval; KY; Fine Particulate Matter and Ozone NAAQS Revisions**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve portions of State Implementation Plan (SIP) revisions submitted by the Commonwealth of Kentucky, through the Kentucky Division for Air Quality, on December 21, 2016, and August 29, 2017, on behalf of the Louisville Metro Air Pollution Control District (District). The changes to the SIP that EPA is taking final action to approve are the portions of the submittals that modify the District's Ambient Air Quality Standards regulation, specifically changes to the District's air quality standards for fine particulate matter (PM<sub>2.5</sub>) and ozone to reflect the 2012 PM<sub>2.5</sub> and 2015 ozone national ambient air quality standards (NAAQS). EPA has determined that the December 21, 2016, and August 29, 2017, SIP revisions are consistent with the Clean Air Act (CAA or Act). EPA will act on the other portions of the December 21, 2016, and August 29, 2017, submittals in a separate action.

**DATES:** This rule will be effective [Insert 30 days after date of publication in the Federal Register].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No.

EPA-R04-OAR-2017-0550. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Madolyn Sanchez, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Sanchez can be reached via telephone at (404) 562-9644 or via electronic mail at [sanchez.madolyn@epa.gov](mailto:sanchez.madolyn@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

Sections 108 and 109 of the CAA govern the establishment, review, and revision, as appropriate, of the NAAQS to protect public health and welfare. The CAA requires periodic review of the air quality criteria—the science upon which the standards are based—and the

standards themselves. EPA’s regulatory provisions that govern the NAAQS are found at 40 CFR 50—*National Primary and Secondary Ambient Air Quality Standards*.

In a proposed rulemaking published on February 8, 2018 (83 FR 5593), EPA proposed to approve into the Kentucky SIP the portions of the revisions to the Jefferson County<sup>1</sup> air quality regulations addressing Regulation 3.01, *Ambient Air Quality Standards*, submitted by the Commonwealth on December 21, 2016, and August 29, 2017. Regulation 3.01 is amended<sup>2</sup> by updating air quality standards in Section 7 for PM<sub>2.5</sub> and ozone to reflect the most recent NAAQS, removing the numbering of the subsections in Section 7, and making textual modifications to the footnotes. The details of Kentucky’s submissions and the rationale for EPA’s action are explained in the proposed rulemaking. Comments on the proposed rulemaking were due on or before March 12, 2018. EPA did not receive any relevant comments on the proposed action.

## **II. Incorporation by Reference**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Jefferson County Regulation 3.01, *Ambient Air Quality Standards*, effective September 21, 2016, and February 15, 2017, which was revised to be consistent with the current NAAQS. EPA has

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<sup>1</sup> In 2003, the City of Louisville and Jefferson County governments merged and the “Jefferson County Air Pollution Control District” was renamed the “Louisville Metro Air Pollution Control District.” However, each of the regulations in the Jefferson County portion of the Kentucky SIP still has the subheading “Air Pollution Control District of Jefferson County.” Thus, to be consistent with the terminology used in the SIP, EPA refers throughout this notice to regulations contained in the Jefferson County portion of the Kentucky SIP as the “Jefferson County” regulations.

<sup>2</sup> The District refers to the revised version of Regulation 3.01 in its December 21, 2016, submittal as “Version 6” and the revised version of Regulation 3.01 in its August 29, 2017, submittal as “Version 7.” Upon EPA’s final approval of changes to Regulation 3.01, the text of the regulation in the SIP will reflect Version 7.

made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 Office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>3</sup>

### **III. Final Action**

EPA is taking final action to approve portions of the Commonwealth of Kentucky’s SIP revisions submitted on December 21, 2016, and August 29, 2017, because these revisions are consistent with the CAA. The submissions revise the District’s air quality standards for PM<sub>2.5</sub> and ozone to reflect the 2012 PM<sub>2.5</sub> and 2015 ozone NAAQS.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. This action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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<sup>3</sup> 62 FR 27968 (May 22, 1997).

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial

review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 30, 2018.

Onis “Trey” Glenn, III

Regional Administrator,

Region 4.



40 CFR part 52 is amended as follows:

**PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

**Subpart S - Kentucky**

2. Section 52.920(c), Table 2 is amended under Reg 3—Ambient Air Quality Standards by revising the entry for “3.01 Ambient Air Quality Standards” to read as follows:

**§52.920 Identification of plan.**

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(c) \* \* \*

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Table 2—EPA-Approved Jefferson County Regulations for Kentucky

Reg	Title/subject	EPA approval date	Federal Register notice	District effective date	Explanation
**	**	*	*		*
<b>Reg 3—Ambient Air Quality Standards</b>					
3.01	Ambient Air Quality Standards	[Insert date of publication in <u>Federal Register</u> ]	[Insert citation of publication]	02/15/17	
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[FR Doc. 2018-09991 Filed: 5/10/2018 8:45 am; Publication Date: 5/11/2018]